



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,731	01/06/2000	JOSEPH GIORDANO III	004444.P003	4667

8791 7590 05/06/2004

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

EXAMINER

CUFF, MICHAEL A

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/480,731

Applicant(s)

GIORDANO ET AL.

Examiner

Michael Cuff

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 22-24, 29-31 and 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Kenny.

Kenny shows an interactive electronic shopping system (serving web page, receiving orders) and method. List can be provided by the means for generating and displaying a list of the present invention is a list of products previously ordered by the shopper and the date (date of ordering) each listed product was last ordered by the shopper. (providing this list inherently shows storing information based on customer identification) This type of list can also indicate the frequency with which each listed product has been ordered or is to be ordered by the shopper. One implementation of this is to program the display means 12 so that actual ordering or selecting of products is automatically tracked and a frequency computation made (analyzing frequency), such as either on the basis of the time since last ordering the same product or an average time based on a historical record of the orders for the same product. These lists are

Art Unit: 3627

generated and displayed by suitable programming means within the display means 12 or as obtained from the storage means 10. (column 6, lines 19-33)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 25, 32, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny.

Kenny, as applied above, shows all of the limitations of the claims except for specifying saving the shipping address.

The examiner takes Official Notice that it is well known in the art to save the previous shipping address in a customer profile in order to facilitate reordering.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Kenny customer profile to incorporate the saving of the previous shipping address in a customer profile in order to facilitate reordering.

5. Claims 26-27, 33-34, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny in view of www.drugstore.com.

Kenny, as applied above, shows all of the limitations of the claims except for specifying details, such as prescriptions and insurance, of online drug purchasing.

www.drugstore.com teaches the incorporation of a Pharmacy department of an online store, which includes means for handling prescriptions and insurance, in order to help the customer legally obtain the drugs.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Kenny store to incorporate the pharmacy department of www.drugstore.com, including means for handling prescriptions and insurance, in order to help the customer legally obtain the drugs.

6. Claims 28, 35, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny in view of Anderson.

Kenny, as applied above, shows all of the limitations of the claims except for specifying suggesting related products.

Anderson teaches a personal intercommunication purchase and fulfillment system. Column 2, lines 6-15, teaches "The present system can perform complementary searches to suggest related products to the consumer based on a buyer's previous purchases. Complementary searches afford buyers greater flexibility and depth of knowledge when purchasing related products. When combined with the economies of scale in large networks, buyers have access to remote selections not

Art Unit: 3627

normally available. This increases the number of purchases made by customers, as well as incremental revenue gains."

Based on the teaching of Anderson, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Kenny system to incorporate the method of suggesting related products in order to increase the number of purchases made by customers, as well as incremental revenue gains.

Response to Arguments

7. Applicant's arguments with respect to claims 22-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lion shows a system of interest.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 3627

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Cuff 5/3/04
Michael Cuff
May 3, 2004